



July 1, 2023

PROJECT: Water Valve Condition Assessment Program

Dear Prospective Bidder:

You are invited to submit a sealed price proposal for the above project. A copy of the Invitation to Bid, Bid Proposal, Compliance Affidavits Form and Envelope Cover are attached. Please make certain you sign your proposal and Affidavits Form (affidavits form must also be notarized) along with various certifications and include with your sealed proposal. A bid bond will be required.

If you have questions please contact me at (423) 229-9315 or email brentmorelock@kingsporttn.gov . We look forward to receiving your proposal.

Sincerely,

A handwritten signature in blue ink that reads "Brent Morelock".

Brent Morelock, CPPO, CPPB
Procurement Manager

C: Engineering

INVITATION TO BID

Sealed bids for the following project will be received by the Procurement Manager until 4:00 P.M., Eastern Time, July 27, 2023, and at that time publicly opened in City Hall Conference Room 436, 415 Broad Street, Kingsport, TN. All bids will be considered for award or rejection at a later date.

PROJECT: Water Valve Condition Assessment Program

All Minority and Women-Owned contractors are encouraged to participate.

A bid bond or certified check in an amount equal to five percent (5%) of the total of the bid is required. Certified checks should be made payable to City Treasurer, City of Kingsport. The successful bidder will be required to execute acceptable Performance and Payment Bonds in an amount equal to one hundred (100%) percent of the contract price.

All bidders must be licensed Contractors as required by the Contractors Licensing Act of 1994 (TCA Title 62, Chapter 6). No bid will be opened unless the outside of the sealed envelope containing the bid provides the following information: the Contractor's license number, the date of the license's expiration, and a quotation of that part of his classification applying to the bid; the Geothermal, HVAC, Masonry, Plumbing, Roofing, and Electrical subcontractor's license number, each date of the license expiration and that part of each classification applying to the bid if the value of work is \$25,000 or greater; (\$100,000.00 or greater for Masonry) if value of the subcontractor's work is less than \$25,000, (\$100,000.00 for Masonry), the bid envelope is to be indicated with the phrase "Subcontractor's bid is less than \$25,000" (\$100,000.00 for Masonry) after each appropriate heading. If no Subcontractor's are being used, the outside of the envelope must state, "No Subcontractors are being used on this project".

By submission of a signed bid, the bidder certifies total compliance with Title VI and Title VII of the Civil Rights Act of 1964, as amended, and all regulations promulgated thereunder.

No submitted bids may be withdrawn for a period of sixty (60) days after the scheduled closing time for receipt of bids. All bids shall be signed, sealed and addressed to the Procurement Manager, City of Kingsport, 415 Broad St., Kingsport, TN 37660, and marked "Water Valve Condition Assessment Program". The City by its governing regulations reserves the right to accept or reject any or all bids received, to waive any informalities in bidding and to re-advertise.

PUB IT: July 1, 2023

Chris McCartt
City Manager

I propose to commence the work within ____ calendar days after notification of acceptance of bid and complete the work in ____ calendar days.

LIQUIDATED DAMAGES

As actual damages for any delay in completion of the work which the Contractor is required to perform under this Contract are impossible of determination, the Contractor and his Sureties shall be liable for and shall pay to the owner the sum of \$500.00 per day as fixed, agreed and liquidated damages for each calendar day of delay from the above date stipulated for completion, or as modified in accordance with Section "Changes in Work" under GENERAL CONDITIONS, until such work is satisfactorily completed and accepted.

My Terms are AS PER BID DOCUMENT.

The bidder hereby agrees that the Board of Mayor and Aldermen have the right to reject any and all bids received and to waive any informalities.

Certified check or bid bond is herewith deposited with the City Treasurer, in the sum of 5% of the total bid amount, made payable to the order of City Treasurer of the City of Kingsport, Tennessee, with the understanding that if the bid herewith submitted is rejected, the said check will be returned to the bidder; and if the said bid is accepted by the City of Kingsport, check will be returned to the bidder upon the execution and securing of a contract to do the said work. If awarded the contract to this work, and the bidder refuses or neglects to execute a written contract to do the same and furnish security in the amount required within ten days after being notified that the contract has been awarded to him the certified check shall be forfeited to the City as liquidated damages for such neglect or refusal, and the amount so collected shall be paid into the fund set aside for the City's portion of the cost of the proposed improvement.

The successful contractor shall provide for workman's compensation and comprehensive general public liability insurance in amounts acceptable to the City. The contractor will furnish comprehensive automobile liability insurance and insurance in such form as shall be satisfactory to the City. The contractor shall furnish owner's liability insurance to defend, indemnify and save harmless the City of Kingsport from any and all claims and suits for injury to persons or property arising out of the performance of the contract caused in any way by the acts or omissions of the contractor or the contractor's agents, employees, or subcontractor during or in connection with the contract work, excepting bodily injury or death or property damage caused by the sole negligence of the owner, its agents or employees. The successful contractor is required to complete a Beneficial Owners Form for projects which exceed \$500,000.00. The form will be provided to the successful contractor at the Pre-Construction Meeting and will be required to be submitted to the City with the first Pay Application/Request.

We have read and acknowledge the requirements of owner's liability insurance to save and defend the City harmless.

We acknowledge receipt of ____ addendum(s) to this project.

BID TO BE SUBMITTED IN DUPLICATE

HANDWRITTEN Signature of Authorized
Representative

FIRM

Date

Tennessee Contractor's License Number

BID MUST BE SIGNED TO BE CONSIDERED

BID ENVELOPE COVER

THIS FORM IS TO BE FIRMLY ATTACHED TO THE OUTSIDE OF THE ENVELOPE CONTAINING THE BID

PART 1

ALL BIDDERS MUST COMPLETE THIS SECTION

Project Name: _____

Project Opening Date & Time: _____

Contractor's Licensed Name: _____

Contractor's Address: _____

Contractor's License Number: _____

Contractor's License Expiration Date: _____

Contractor's License Classification: _____

PART 2 - SUBCONTRACTORS

ALL BIDDERS MUST COMPLETE THIS SECTION. IF SUBCONTRACTOR'S BID AMOUNT IS \$25,000 OR MORE FOR (1) ELECTRICAL, (2) PLUMBING, (3) HEATING, VENTILATION, AIR CONDITIONING, (4) GEOTHERMAL, (5) ROOFING OR \$100,000 OR MORE FOR (6) MASONRY. IF THAT PORTION OF THE BID IS LESS THAN \$25,000 FOR ELECTRICAL, PLUMBING, HVAC, GEOTHERMAL, OR ROOFING ENTER "NONE" OR N/A IN THE NAME SPACE FOR THOSE CATEGORIES BELOW. IF THAT PORTION OF THE BID IS LESS THAN \$100,000 FOR MASONRY ENTER "NONE" OR N/A IN THE NAME SPACE FOR THAT CATEGORY BELOW.

1) *Electrical*

Name: _____

License Number: _____

License Expiration Date: _____

Classification: _____

4) *Geothermal*

Name: _____

License Number: _____

License Expiration Date: _____

Classification: _____

2) *Plumbing*

Name: _____

License Number: _____

License Expiration Date: _____

Classification: _____

5) *Roofing*

Name: _____

License Number: _____

License Expiration Date: _____

Classification: _____

3) *HVAC*

Name: _____

License Number: _____

License Expiration Date: _____

Classification: _____

6) *Masonry*

Name: _____

License Number: _____

License Expiration Date: _____

Classification: _____

REQUEST FOR PROPOSAL
CITY OF KINGSPORT UTILITIES DEPARTMENT
WATER VALVE CONDITION ASSESSMENT PROGRAM

July 1, 2023

PROJECT: Water Valve Condition Assessment Program

Dear Representative:

The City of Kingsport is currently interested in contracting with a firm with experience and expertise in Water Isolation Valve Exercising & Data Collection.

Firms desiring to be considered must submit five (5) copies of the proposal to:

Procurement Manager
415 Broad Street
Kingsport, TN 37660

REPLIES MUST BE RECEIVED NO LATER THAN 4:00 P.M. EASTERN TIME, JULY 27, 2023. MARK THE OUTSIDE OF THE ENVELOPE REQUEST FOR PROPOSALS – CITY OF KINGSPORT UTILITIES DEPARTMENT – WATER VALVE ASSESSMENT PROGRAM

If hand delivered, they will be delivered to the Procurement Department, 415 Broad Street, Kingsport, Tennessee.

All proposals received by the Procurement Manager shall be publicly opened and examined at the in Conference Room #436, City Hall, 415 Broad Street, Kingsport, TN at 4:00 P.M. Eastern Standard Time, July 27, 2023. Once all proposals have been opened, the Procurement Manager will announce only the names of the submitters.

Any cost incurred in preparation of this Request for Qualifications and in the interview phase will solely be the responsibility of the consultant.

Fee structure is to be included with the proposal.

Any additional information concerning this request may be obtained from the Procurement Department at (423) 229-9419.

Sincerely,

Brent Morelock
Procurement Manager

Request for Proposal
City of Kingsport Utilities Department
Water Valve Condition Assessment Program

This project will be fully or partially funded with Federal funds and are subject to the Federal laws and regulations associated with the American Rescue Plan (ARP) Fiscal Recovery Fund grant.

PROJECT: WATER VALVE CONDITION ASSESSMENT PROGRAM

PROGRAM GOALS AND OBJECTIVES

The goal of the condition assessment program is to improve the Owners electronic maps and asset management system with accurate locations and asset information for all mainline water isolation valves. The program will increase the operational efficiency of water maintenance staff and provide valuable asset information that can be used in future planning efforts.

BACKGROUND

The City of Kingsport manages a regional water system that provides drinking water to approximately 40,000 customers in a service area of over 120 square miles, serving the City of Kingsport along with portions of Sullivan County, Washington County, Hawkins County, Greene County, and Scott County Virginia. The system includes a 29 million gallons per day rated capacity water treatment plant, over 800 miles of water lines, 22 tanks and 15 major pump stations.

The locations of water valves, hydrants, and other assets have historically been recorded on paper maps (until early 2000's) and AutoCAD drawings (until 2019). Starting in 1996 the City began developing a geographic information system (GIS) that included water asset locations and attributes. The City's water operations manage and update map information through their asset management software Cartegraph which was adopted in 2015. Cartegraph works synergistically with the City's GIS to reconcile differences between databases and maintain consistent mapping information between both records. Although Cartegraph has been in use by field staff for several years there is still a strong reliance on institutional knowledge for day to day operations and emergency situations.

The City's long term approach to asset management is to utilize Cartegraph to both track task history on assets and aid operations staff in locating assets and planning work. Cartegraph has approximately 7,000 mainline water isolation valves. This number is a fraction of the actual system valves recorded on AutoCAD maps. A large portion of the valves recorded on the AutoCAD maps were not formatted in a way that allowed them to easily be migrated to the City's GIS. Many maps have both point locations of valves and annotations drawn on the same layer or valve locations can only be inferred by the presence of dimensions to points on water mains.

The City is seeking to utilize ARP funds to improve its asset management program by locating and adding these missing system valves to their GIS and Cartegraph. Maps of the City's water infrastructure are available online on the City's website (KingsportTN.gov) under the Maps portion of the City Services tab. Examples of paper records and AutoCAD maps are also available for review. Contact Harris Darby at HarrisDarby@KingsportTN.gov or 423-224-2727 to coordinate the transfer of files.

SCOPE OF WORK

1. The final Scope of Work may be modified and will become a part of any contract or agreement between the City and the selected Firm.
2. Valve Exercising & Data Collection – Using Owner records, field locate all mainline isolation valves. Collect a coordinate point and detailed asset information including but not limited to: operation type, depth to operating nut, turns to operate, position found, operable, surrounding cover, casting shape, direction to close, and other observations. All valves in the program shall be operated until moving freely at minimum two full cycles. Operations of the valves shall comply with AWWA M-44 Manual of Practice. Valves not to be part of the program include: check valves, altitude valves, pressure reducing valves, air release valves, hydrant isolation valves, blow valves, service isolation valves, and valves within the Kingsport Water Treatment
3. Data Management – The data collected will be formatted such that it shall be easily integrated into Cartegraph OMS either directly or through the Owner’s enterprise geodatabase.
4. Project Management – The Firm shall coordinate the work and provide regular updates to the Owner regarding schedule, progress, deliverables, broken or frozen valves, and other repair recommendations as identified.
5. Schedule of Costs – provide schedule of costs for all activities to be included in the scope of work with an estimated total for completion based on 20,000 valves.

SUBMITTAL OF QUALIFICATIONS

The following information should be included as a minimum:

1. Firm Profile - Provide a summary of the firm's history and capabilities. Identify the firm’s principals, project background, and areas of specialty.
2. Project Team - Provide resumes for those individuals proposed for the work including any subcontractors. Identify their project experience, professional certifications, affiliations, and other relevant qualifications.
3. Management - The project manager and principal in charge should be listed with their respective experience.
4. Relevant Experience - Provide a listing of similar type projects completed by the firm during the past ten years.

SELECTION CRITERIA

All proposals will be reviewed and rated by a selection committee representing the City of Kingsport. Criteria for evaluation will include [must total 100%]:

- 60% - Proposal for accomplishing the tasks listed in Project Scope
- 20% - Cost to assess 20,000 valves
- 10% - Capacity to perform the services within the established timeframe
- 10% - References

SUPPLEMENTAL CONDITIONS

REQUIRED STATE OR GRANTEE CERTIFICATIONS

The following documents outline required supplementary conditions to be completed and provided by the bidders with your RFP response.

- [BYRD Anti-Lobbying Amendment Certification](#)
- [Iran Divestment Act Certification](#)
- [Debarment Certification](#)
- [Non-Boycott of Israel Certification](#)

REQUIRED AND RECOMMENDED FEDERAL CONTRACT PROVISIONS

The following document outline the required and recommended provisions that must be included in contracts that are being funded in part or whole with grant funding from the SLFRF.

[Required and Recommended SLFRF Supplemental Conditions for Contracts](#)

COMPLIANCE AFFIDAVIT(S) (TOTAL OF 2 PAGES)

THIS COMPLIANCE AFFIDAVIT MUST BE SIGNED, NOTARIZED AND INCLUDED WITH ALL BIDS – FAILURE TO INCLUDE THIS FORM WITH THE BID SUBMITTED SHALL DISQUALIFY THE BID FROM BEING CONSIDERED.

VENDOR: _____

CONFLICT OF INTEREST:

1. No Board Member or officer of the City of Kingsport or other person whose duty it is to vote for, let out, overlook or in any manner superintend any of the work for the City of Kingsport has a direct interest in the award of the vendor providing goods or services.
2. No employee, officer or agent of the grantee or sub-grantee will participate in selection, or in the award or administration of an award supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the employee, officer or agent, any member of their immediate family, his or her partner, or an organization, which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.
3. The grantee's or sub-grantees officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from vendors, potential vendors, or parties to sub-agreements.
4. Do you or any officers/part-owners/stake-holders/employees of this company have any relative(s) (relatives include spouse, children, stepchildren or any to whom you are related by blood or marriage) that are currently employed by the City of Kingsport, Tennessee, including the Kingsport City School System or serve on the Kingsport Board of Mayor and Aldermen or the Kingsport Board of Education?
_____ Yes _____ No

If you answered yes please state the name and relationship of the employee or member of the Kingsport Board of Mayor and Aldermen or Kingsport Board of Education member

5. Are you or any officers/part-owners/stake-holders/employees of this company also employees of the City of Kingsport, including the Kingsport City School System or serve on the Kingsport Board of Mayor and Aldermen or Kingsport Board of Education? _____ Yes _____ No

If you answered yes please state the name of the employee or board member

6. By submission of this form, the vendor is certifying that no conflicts of interest exist.

DRUG FREE WORKPLACE REQUIREMENTS:

7. Private employers with five or more employees desiring to contract for construction services attest that they have a drug free workplace program in effect in accordance with TCA 50-9-112.

ELIGIBILITY:

8. The vendor is eligible for employment on public contracts because no convictions or guilty pleas or pleas of nolo contendere to violations of the Sherman Anti-Trust Act, mail fraud or state criminal violations with an award from the State of Tennessee or any political subdivision thereof have occurred.

GENERAL:

9. Vendor fully understands the preparation and contents of the attached offer and of all pertinent circumstances respecting such offer.
10. Such offer is genuine and is not a collusive or sham offer.

IRAN DIVESTMENT ACT:

11. Concerning the Iran Divestment Act (TCA 12-12-101 et seq.), by submission of this bid/quote/proposal, each vendor and each person signing on behalf of any vendor certifies, and

in the case of a joint bid/quote/proposal, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each vendor is not on the list created pursuant to § 12-12-106.

NON-COLLUSION:

12. Neither the said vendor nor any of its officers, partners, owners, agents, representatives, employees or parties interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly, with any other responder, firm, or person to submit a collusive or sham offer in connection with the award or agreement for which the attached offer has been submitted or to refrain from making an offer in connection with such award or agreement ,or collusion or communication or conference with any other firm, or, to fix any overhead, profit, or cost element of the offer price or the offer price of any other firm, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against the City of Kingsport or any person interested in the proposed award or agreement.
13. The price or prices quoted in the attached offer are fair, proper and not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the firm or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

BACKGROUND CHECK REQUIREMENT FOR SCHOOL SYSTEM SUPPLIERS:

14. In submitting this bid/quote/proposal, you are certifying that you are aware of the requirements imposed by TCA § 49-5-413 (d) to conduct criminal background checks through the Tennessee Bureau of Investigation and the Federal Bureau of Investigation on yourself and any of your employees who may come in direct contact with students or who may come on or about school property anytime students are present. You are further certifying that at no time will you ever permit any individual who has committed a sexual offense or who is a registered sex offender to come in direct contact with children or to come on or about school property while students are present.

NON-BOYCOTT OF ISRAEL AFFIDAVIT

15. Concerning the Non-Boycott of Israel Act (TCA 12-4-1 et seq.), by submission of this bid/quote/proposal, each supplier and each person signing on behalf of any supplier certifies, and in the case of a joint bid/quote/proposal, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each supplier is not boycotting Israel pursuant to § 12-4-1 and will not during the term of any award. Note: Applicable only to contracts of \$250,000 or more and to suppliers with 10 or more employees.

The undersigned hereby acknowledges and verifies that the response submitted to this solicitation is in full compliance with the applicable laws/listed requirements. The undersigned also declares under penalty of perjury under the laws of the State of Tennessee that the foregoing is true and correct.

SIGNED

BY: _____

PRINTED NAME: _____

TITLE: _____

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE: _____

BY (NOTARY PUBLIC): _____

MY COMMISION EXPIRES ON: _____

CERTIFICATION OF SUBCONTRACTOR REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND EXCLUSION

Pursuant to 2 CFR Parts 183, 215, and 2424, and the requirement of the U.S. Department of Housing and Urban Development (HUD), subcontractors for projects that are funded in whole or in part by HUD funds must provide information concerning the entity’s debarment, suspension, ineligibility or exclusion status. This document shall be completed and provided to the prime contractor.

1. By signing and submitting this proposal, the prospective lower-tier participant certifies that neither it, its principals nor affiliates, is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. Further, the Participant provides the certification set out below:
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that an erroneous certification was rendered, in addition to other remedies available to the Federal Government, the Department or agency with which this transaction originated may pursue available remedies.
3. Further, the Participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the Participant learns that this certification was erroneous when submitted or has become erroneously by reason of changed circumstances.
4. By submitting this document, it is agreed that should the proposed covered transaction be entered into, the Participant will not knowingly enter into any lower-tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction unless authorized by the agency with which this transaction originated.

The subcontracting entity may satisfy the requirement of this document via one of the two options below:

Option 1: SAM.gov Active Registration

Entity Name: _____

Address: _____

City: _____ State: _____ Zip: _____

SAM Entity ID: _____ Expiration Date: _____

Active Exclusions: Yes No

Option 2: Signed Certification

Entity Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Entity Representative: _____ Title: _____

Signature: _____

CERTIFICATION OF NON-BOYCOTT OF ISRAEL

The Bidder certifies that it is not currently engaged in, and will not for the duration of the contract engage in, a boycott of Israel as defined by Tenn. Code Ann. § 12-4-119. This provision shall not apply to contracts with a total value of less than two hundred fifty thousand dollars (\$250,000) or to contractors with less than ten (10) employees.

According to the law, a boycott of Israel means engaging in refusals to deal, terminating business activities, or other commercial actions that are intended to limit commercial relations with Israel, or companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel to do business, or persons or entities doing business in Israel, when such actions are taken:

- 1) In compliance with, or adherence to, calls for a boycott of Israel, or
- 2) In a manner that discriminates on the basis of nationality, national origin, religion, or other unreasonable basis, and is not based on a valid business reason. Tenn. Code Ann. § 12-4-119.

I certify this statement to be true and correct.

Bidder Name Printed

Date

Signature of Bidder

Company

**IRAN DIVESTMENT
ACT**

In compliance with the Iran Divestment Act (State of Tennessee 2016, Public Chapter No. 817), which became effective on July 1, 2016, certification is required of all bidders on contracts over \$1,000.

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party hereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to T.C.A. § 12-12-106.

I affirm, under the penalties of perjury, this statement to be true and correct.

Date	Signature of Bidder
	Company

A bid shall not be considered for award nor shall award be made where the foregoing certification has been complied with; provided, however, that if in any case the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefor. The **City/County of _____** may award a bid to a bidder who cannot make the certification, on case-by-case basis, if:

1. The investment activities in Iran were made before July 1, 2016, the investment activities in Iran have not been expanded or reviewed on or after July 1, 2016, and the person has adopted, publicized, and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran; or
2. The **City/County of _____** makes a determination that the goods or services are necessary for the **City/County of _____** to perform its functions and that, absent such an exemption, the political subdivision will be unable to obtain the goods or services for which the contract is offered. Such determination shall be made in writing and shall be a public document.

Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be affected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(E) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations

and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(F) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(G) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(H) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(I) Domestic Preferences for Procurements - As appropriate and to the extent consistent with law, Supplier should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

(J) This is an acknowledgement that Treasury ARP SLFRF financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, Treasury policies, procedures, and directives.

**ATTACHMENT
CERTIFICATION REGARDING LOBBYING**

Applicable to Grants, Subgrants, Cooperative Agreements, and Contracts Exceeding \$100,000 in Federal Funds.

Submission of this certification is a prerequisite for making or entering into this transaction and is imposed by section 1352, Title 31, U.S. Code. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Any person who fails to file the required certifications shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The undersigned certifies, to the best of his knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all covered subawards exceeding \$100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

Name/Address of Organization

Name/Title of Submitting Official

Signature

Date

CITY OF KINGSPORT

**BID
DOCUMENT
BOOK**

Kingsport, Tennessee

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Note:

The City of Kingsport Engineering Specifications (Tennessee Public Works Construction Standards) are available in Adobe PDF format on CD and on the City of Kingsport website.

Familiarity of these specifications is necessary for performing construction for the City of Kingsport. All bidders should be sure they have the latest edition of these specifications.

INSTRUCTIONS TO BIDDERS

1. USE OF SEPARATE BID FORMS

These Contract Documents include a complete set of bidding and Contract forms that are for the convenience of bidders and are not to be detached from the Contract Document, filled out, or executed. Separate copies of Bid Forms are furnished for that purpose.

2. INTERPRETATIONS OR ADDENDA

No oral interpretation will be made to any bidder as to the meaning of the Contract Documents or any part thereof. Every request for such an interpretation shall be made in writing to the Owner. Any written inquiry received no less than ninety six (96) hours, excluding weekends and legal holidays prior to the bid opening date and time will be given consideration. Every interpretation made to a bidder will be in the form of an Addendum to the Contract Documents, and when issued, will be on file in the office of the Engineer no less than forty eight (48) hours, excluding weekends and legal holidays, prior to the bid opening date and time. In addition, all Addenda will be e-mailed to each person holding Contract Documents, but it shall be the bidder's responsibility to make inquiry as to the Addenda issued. All such Addenda shall become part of the Contract and all bidders shall be bound by such Addenda, whether or not received by the bidder.

3. INSPECTION OF SITE

Each bidder should visit the site of the proposed work and fully acquaint himself with the existing conditions there relating to construction and labor, and should fully inform himself as to the facilities involved, the difficulties and restrictions attending the performance of the Contract. The bidder should thoroughly examine and familiarize himself with the Drawings, Technical Specifications, and all other Contract Documents. The Contractor, by the execution of the Contract, shall in no way be relieved of any obligation under it due to his failure to receive or examine any form or legal instrument or to visit the site and acquaint himself with the conditions there existing and the Owner will be justified if rejecting any claim based on facts regarding which he should have been on notice as a result thereof. Bidders will be given instructions on whom to contact to arrange to see the work area.

4. ALTERNATIVE BIDS

No alternative bids will be considered unless alternative bids are specifically requested by the technical specifications.

5. BIDS

A. All bids must be submitted on forms supplied by the Owner and shall be subject to all requirements of the Contract Documents, including the Drawings, and these

INSTRUCTIONS TO BIDDERS. All bids must be regular in every respect and no interlineations, excisions or special conditions shall be made or included in the Bid Form by the bidder.

- B. Bid Documents including the Bid, the Bid Guarantee and the Compliance Affidavit(s) shall be enclosed in envelopes which shall be sealed and clearly labeled as indicated in the legal advertisement.
- C. The Owner may consider as irregular any Bid on which there is an alternation or departure from the Bid Form hereto attached and at its option may reject the same.
- D. If the Contract is awarded, it will be awarded by the Owner to the lowest, responsible, compliant bidder meeting specifications, to include selected alternative bid items, for the work desired in the best interest and advantage to the Owner. The Contract will require the completion of the work according to the Contract Documents.

6. BID GUARANTY

- A. The bid must be accompanied by a Bid Bond executed by the bidder and a Surety Company authorized to transact business in the State of Tennessee, or a certified check, in the sum of five percent (5%) of the amount of the bid, payable to the order of the City Treasurer, City of Kingsport. The bond or check is required as a guarantee that if the bid is accepted, a Contract will be entered into and the performance of same properly secured within fifteen (15) days after notification of acceptance of the bid.
- B. Revised bids submitted before the opening of bids, whether forwarded by mail or telegram, if representing an increase in excess of 2 percent (2%) of the original bid, must have the Bid Guaranty adjusted accordingly; otherwise the bid will not be considered.
- C. Certified checks of unsuccessful bidders will be returned as soon as practical after the opening of the bids.

7. CONFLICT OF INTEREST, DRUG FREE WORKPLACE AFFIDAVIT, ELIGIBILITY, IRAN DIVESTMENT ACT AFFIDAVIT, NON-COLLUSION AND BACK GROUND CHECK – SCHOOL SYSTEM SUPPLIERS

- A. Each bidder submitting a bid to the Owner for any portion of the work contemplated by the documents on which bidding is based shall execute and attach thereto, in the form herein provided, (Compliance Affidavit(s), to verify compliance of these categories.
- B. Before executing any subcontract the successful bidder shall submit the name of any proposed subcontractor for prior approval and an affidavit substantially in the

form provided herein.

8. STATEMENT OF BIDDER'S QUALIFICATIONS

Each bidder shall upon request of the Owner furnish a statement of the bidder's qualifications, his experience record in constructing the type of improvements embraced in the Bid Document, his organization and equipment available for the work contemplated, and, when specifically requested by the Owner, a detailed financial statement.

The Owner shall have the right to take such steps as it deems necessary to determine the ability of the bidder to perform his obligations under the Contract, and the bidder shall furnish the Owner all such information and data for this purpose as it may request. The right is reserved to reject any bid where an investigation of the available evidence or information does not satisfy the Owner that the bidder is qualified to carry out properly the terms of the Contract.

9. UNIT PRICES / LUMP SUM

A. The unit price for each of the several items in the proposal of each bidder shall include its pro-rata share of overhead so that the sum of the products obtained by multiplying the quantity shown for each item by the unit price bid represents the total bid. Any bid not conforming to this requirement may be rejected as informal. The special attention of all bidders is called to this provision, for should conditions make it necessary to revise the quantities, no limit will be fixed for such increased or decreased quantities nor extra compensation allowed, except for work not covered in the Drawings and Technical Specifications as provided for hereof.

B. If the bid is a lump sum, the Contractor will submit to the Owner a breakdown of his estimated cost of all work, arranged and itemized as to meet the approval of the Owner. This breakdown shall be submitted promptly after execution of the agreement and before any payment is made to the Contractor for the work performed under the Contract. After approval by the Owner the unit prices established in the breakdown shall be used in estimating the amount of partial payment to be made to the Contractor.

10. CORRECTIONS

Erasures or other changes in the bids must be explained or noted over the signature of the bidder.

11. TIME FOR RECEIVING BIDS

A. Bids received prior to the advertised hour of opening will be securely kept sealed. The officer whose duty it is to open them will decide when the specified time has

arrived, and no bid received thereafter will be considered.

- B. Bidders are cautioned that, while telegraphic modifications of bids may be received as provided above, such modifications, if not explicit and if in any sense subject to misinterpretation, shall make the bid so modified or amended, subject to rejection.

12. OPENING OF BIDS

At the time and place fixed for the opening of bids, the Owner will cause to be opened and publicly read aloud every bid received within the time set for receiving bids. Bidders and other persons properly interested may be present, in person or by representative.

13. WITHDRAWAL OF BIDS

Bids may be withdrawn on written or telegraphic request dispatched by the bidder in time for delivery in the normal course of business to the time fixed for opening, provided that written confirmation of any telegraphic withdrawal over the signature of the bidder is placed in the mail and post marked prior to the time set for bid opening. The Bid Guaranty of any bidder withdrawing his bid in accordance with the foregoing conditions will be returned, when requested by the Bidder.

14. AWARD OF CONTRACT; REJECTION OF BIDS

- A. The Contract will be awarded to the responsible bidder submitting the lowest bid complying with the conditions of the Invitation for Bids. The bidder to whom the award is made will be notified at the earliest possible date. The Owner, however, reserves the right to reject any and all bids and to waive any informality in bids received whenever such rejection or waiver is in its interest.
- B. The Owner reserves the right to consider as unqualified to do the work of general construction any bidder who does not habitually perform with his own forces the major portions of the work involved in construction of the improvements embraced in this bid document.

15. EXECUTION OF AGREEMENT: PERFORMANCE OF PAYMENT BONDS

- A. Subsequent to the award and within fifteen (15) days after the prescribed forms are presented for signature, the successful bidder shall execute and deliver to the Owner an Agreement in the form included in the Contract Documents in such number of copies as the Owner may require.
- B. Having satisfied all conditions of award as set forth elsewhere in these documents, the successful bidder shall, within the period specified in paragraph "All above, furnish a surety bond in a penal sum not less than the amount of the

Contract as awarded, as security for the faithful performance of the Contract, and for the payment of all persons, firms or corporations to whom the Contractor may become legally indebted for labor, materials, tools, equipment, or services of any nature including utility and transportation services, employed or used by him in performing the work. Such bond shall be in the same form as that included in the Contract Documents and shall bear the same date as, or a date subsequent to that of the Agreement. The current power of attorney for the person who signs for any surety company shall be attached to such bond. All bonds and surety guaranty shall be provided by an agent representing a reputable insurance and bonding company authorized to do business in the State of Tennessee in accordance with the Tennessee Code Annotated.

- C. The failure of the successful bidder to execute such Agreement and to supply the required bond or bonds within fifteen (15) days after the prescribed forms are presented for signature, or within such extended period as the Owner may grant, based upon reasons determined sufficient by the Owner, shall constitute a default, and the Owner may either award the Contract to the next lowest, responsible bidder or re-advertise for bids, and may charge against the bidder the difference between the amount of the bid and the amount for which a contract for the work is subsequently executed, irrespective of whether the amount thus due exceeds the amount of the bid bond. If a more favorable bid is received by re-advertising the defaulting bidder shall have no claim against the Owner for a refund.

16. UNIT PRICES /LUMP SUM

Shall include all Federal, State and local taxes, permits and license costs, bond costs and any other cost.

17. SPECIAL INSTRUCTIONS

It is the responsibility of the bidder to insure they have a complete bid document. Clarification will be requested of the Procurement Manager, City of Kingsport, as required.

18. LAWS AND REGULATIONS

The bidder's attention is directed to the fact that applicable Federal, State, County, and City statutes, laws, ordinances, and regulations of all authorities having jurisdiction over construction of the project shall apply to the Contract throughout, and they will be deemed to be included in the Contract the same as though herein written out in full and the successful bidder shall observe and comply with same.

COMPLIANCE AFFIDAVIT(S) (TOTAL OF 3 PAGES)

THIS COMPLIANCE AFFIDAVIT MUST BE SIGNED, NOTARIZED AND INCLUDED WITH ALL BIDS – FAILURE TO INCLUDE THIS FORM WITH THE BID SUBMITTED SHALL DISQUALIFY THE BID FROM BEING CONSIDERED.

VENDOR: _____

CONFLICT OF INTEREST:

1. No Board Member or officer of the City of Kingsport or other person whose duty it is to vote for, let out, overlook or in any manner superintend any of the work for the City of Kingsport has a direct interest in the award of the vendor providing goods or services.
2. No employee, officer or agent of the grantee or sub-grantee will participate in selection, or in the award or administration of an award supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the employee, officer or agent, any member of their immediate family, his or her partner, or an organization, which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.
3. The grantee's or sub-grantees officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from vendors, potential vendors, or parties to sub-agreements.
4. By submission of this form, the vendor is certifying that no conflicts of interest exist.
5. Do you or any officers/owners/part-owners/stake-holders/employees of this company have any relative(s) (relatives include spouse, children, stepchildren or any to whom you are related by blood or marriage) that are currently employed by the City of Kingsport, Tennessee, including the Kingsport City School System or serve on the Kingsport Board of Mayor and Aldermen or the Kingsport Board of Education?
_____ Yes _____ No

If you answered yes please state the name and relationship of the employee or member of the Kingsport Board of Mayor and Aldermen or Kingsport Board of Education member

6. Are you or any officers/owners/part-owners/stake-holders/employees of this company also employees of the City of Kingsport, including the Kingsport City School System or serve on the Kingsport Board of Mayor and Aldermen or Kingsport Board of Education? _____ Yes _____ No

If you answered yes please state the name of the employee or board member

DRUG FREE WORKPLACE REQUIREMENTS:

7. Private employers with five or more employees desiring to contract for construction services attest that they have a drug free workplace program in effect in accordance with TCA 50-9-112.

ELIGIBILITY:

8. The vendor is eligible for employment on public contracts because no convictions or guilty pleas or pleas of nolo contendere to violations of the Sherman Anti-Trust Act, mail fraud or state criminal violations with an award from the State of Tennessee or any political subdivision thereof have occurred.

GENERAL:

9. Vendor fully understands the preparation and contents of the attached offer and of all pertinent circumstances respecting such offer.
10. Such offer is genuine and is not a collusive or sham offer.

IRAN DIVESTMENT ACT:

11. Concerning the Iran Divestment Act (TCA 12-12-101 et seq.), by submission of this bid/quote/proposal, each vendor and each person signing on behalf of any vendor certifies, and in the case of a joint bid/quote/proposal, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each vendor is not on the list created pursuant to § 12-12-106.

NON-COLLUSION:

12. Neither the said vendor nor any of its officers, partners, owners, agents, representatives, employees or parties interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly, with any other responder, firm, or person to submit a collusive or sham offer in connection with the award or agreement for which the attached offer has been submitted or to refrain from making an offer in connection with such award or agreement ,or collusion or communication or conference with any other firm, or, to fix any overhead, profit, or cost element of the offer price or the offer price of any other firm, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against the City of Kingsport or any person interested in the proposed award or agreement.
13. The price or prices quoted in the attached offer are fair, proper and not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the firm or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

BACKGROUND CHECK REQUIREMENT FOR SCHOOL SYSTEM SUPPLIERS:

14. In submitting this bid/quote/proposal, you are certifying that you are aware of the requirements imposed by TCA § 49-5-413 (d) to conduct criminal background checks through the Tennessee Bureau of Investigation and the Federal Bureau of Investigation on yourself and any of your employees who may come in direct contact with students or who may come on or about school property anytime students are present. You are further certifying that at no time will you ever permit any individual who has committed a sexual offense or who is a registered sex offender to come in direct contact with children or to come on or about school property while students are present.

NON-BOYCOTT OF ISRAEL AFFIDAVIT

15. Concerning the Non-Boycott of Israel Act (TCA 12-4-1 et seq.), by submission of this bid/quote/proposal, each supplier and each person signing on behalf of any supplier certifies, and in the case of a joint bid/quote/proposal, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each supplier is not boycotting Israel pursuant to § 12-4-1 and will not during the term of any award. Note: Applicable only to contracts of \$250,000 or more and to suppliers with 10 or more employees.

The undersigned hereby acknowledges and verifies that the response submitted to this solicitation is in full compliance with the applicable laws/listed requirements. The undersigned also declares under penalty of perjury under the laws of the State of Tennessee that the foregoing is true and correct.

SIGNED

BY: _____

PRINTED NAME: _____

TITLE: _____

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE: _____

BY (NOTARY PUBLIC): _____

MY COMMISION EXPIRES ON: _____

GENERAL CONDITIONS

PART I

DEFINITIONS

Whenever used in any of the Contract Documents, the following meanings shall be given to the terms herein defined:

- A. The term “Contract” means the Contract executed by the Owner and the Contractor, of which these GENERAL CONDITIONS, are a part.
- B. The term “Owner” means the City of Kingsport which is authorized to undertake this Contract.
- C. The term “Contractor” means the person, firm or corporation entering into the Contract with the Owner.
- D. The term “Project Area” means the site of the work.
- E. The term “Engineer” means an individual or designated representative, employed by the Owner, in charge serving the Owner, his successor, or having in charge the work embraced in this Contract, the said Engineer acting directly or indirectly through any Assistant Engineer having general charge of the work or through any assistant having immediate charge of a portion hereof limited by the particular duties entrusted to him.
- F. The term “Local Government” means the governmental entity within which, the Project Area is situated.
- G. The term “Contract Documents” means and shall include the following: Executed Agreement, Addenda (if any), Invitation for Bids, Instructions to Bidders, Signed Copy of Bid, General Conditions, Special Conditions, Technical Specifications, and Drawings and any other sections listed in the Table of Contents or any Addenda.
- H. The term “Drawings” means the drawings provided by the Owner.
- I. The term “Technical Specifications” means that part of the Contract Documents which describes, outlines and stipulates; the quality of the material to be furnished; the quality of workmanship required; and the methods to be used in carrying out the construction work to be performed under this Contract.
- J. The term “Addendum” or “Addenda” means any changes, revisions or clarifications of the Contract Documents which have been duly issued by the Owner to prospective Bidders prior to the time of receiving Bids.

2. SUPERINTENDENCE BY CONTRACTOR

- A. Except where the Contractor is an individual and gives his personal superintendence to the work, the Contractor shall provide a competent superintendent, satisfactory to the Owner, on the work at all times during working hours with full authority to act for him. The Contractor shall also provide an adequate staff for the proper coordination and expediting of his work.
- B. The Contractor shall lay out his own work and he shall be responsible for all work executed by him under the Contract. He shall verify all figures and elevations before proceeding with the work and will be held responsible for any error resulting from his failure to do so.

3. SUBCONTRACTS

- A. The Contractor shall not execute any agreement with any subcontractor to perform any work included in this contract until he has submitted a non-collusion affidavit from the subcontractor in substantially the form provided within this document and has received written approval of such subcontractor from the Owner.
- B. No proposed subcontractor shall be disapproved by the Owner except for cause.
- C. The Contractor shall be as fully responsible to the Owner for the acts and omissions of his subcontractors, and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.
- D. The Contractor shall cause appropriate provision to be inserted in all subcontracts relative to the work to require compliance by each subcontractor with the applicable provisions of the Contract for the improvements embraced in the Bid Document.
- E. Nothing contained in the Contract shall create any contractual relation between any subcontractor and the Owner.

4. OTHER CONTRACTS

The Owner may award, or may have awarded other contracts for additional work, and the Contractor shall cooperate fully with such other Contractors, by scheduling his own work to be performed under other contracts as may be directed by the Owner. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other Contractor as scheduled.

5. FITTING AND COORDINATION OF THE WORK

The Contractor shall be responsible for the proper fitting of all work and for the coordination of the operations of all trades, subcontractors, or materialmen engaged upon this Contract. He shall be prepared to guarantee to each of his subcontractors the locations and measurements which they may require for the fitting of their work to all surrounding work.

6. MUTUAL RESPONSIBILITY OF CONTRACTORS

If through acts or neglect on the part of the Contractor, any other Contractor or any subcontractor shall suffer loss or damage on the work, the Contractor shall settle with such other Contractor or subcontractor by agreement or arbitration, if such other Contractor or subcontractor will so settle. If such other Contractor or subcontractor shall assert any claim against the Owner on account of any damage alleged to have been so sustained, the Owner will notify this Contractor, who shall defend at his own expense any suit based upon such claim and, if any judgment or claims against the Owner shall be allowed, the Contractor shall pay or satisfy such judgment or claim and pay all costs and expenses in connection therewith.

7. PROGRESS SCHEDULE

The Contractor shall submit for approval immediately after execution of the Agreement, a Progress Schedule, showing the proposed dates of starting and completing each of the various sections of the work, the anticipated monthly payments to become due the Contractor, and the accumulated percent of progress each month.

8. PAYMENTS TO CONTRACTOR

A. Partial Payments

- (1) The Contractor shall prepare his requisition for partial payment as of the last day of the month and submit it, with the required number of copies, to the Engineer for his approval. The amount of the payment due the Contractor shall be determined by adding to the total value of work completed to date, the value of materials properly stored on the site and deducting: (1) Five percent (5%) of; and (2) The amount of all previous payments. The total value of work completed to date shall be based on the estimated quantities of work completed and on the unit prices contained in the agreement. The value of materials properly stored on the site shall be based upon the estimated quantities of such materials and the invoice prices. Copies of all invoices shall be available for inspection of the Engineer.
- (2) Monthly or partial payments made by the Owner to the Contractor are moneys advanced for the purpose of assisting the Contractor to expedite

the work of construction. The Contractor shall be responsible for the care and protection of all materials and work upon which payments have been made until final acceptance of such work and materials by the Owner. Such payments shall not constitute a waiver of the right of the Owner to require the fulfillment of all terms of the Contract and the delivery of all improvements embraced in this Contract complete and satisfactory to the Owner in all details.

B. Final Payment

- (1) After final inspection and acceptance by the Owner of all work under the Contract, the Contractor shall prepare his requisition for final payment which shall be based upon the carefully measured or computed quantity of each item of work at the applicable unit prices stipulated in the Agreement. The total amount of the final payment due the Contractor under this Contract shall be the amount computed as described above less all previous payments. Final payment to the Contractor shall be made subject to his furnishing the Owner, arising under and by virtue of his Contract, other than such claims, if any, as may be specifically excepted by the Contractor from the operation of the release as provided under Section entitled DISPUTES.
- (2) The Owner, before paying the final estimate, may require the Contractor to furnish releases or receipts from all subcontractors having performed any work and all persons having supplied materials, equipment installed on the Project and services to the Contractor, if the Owner deems the same necessary in order to protect its interest. The Owner, however, may if it deems such action advisable, make payment in part or in full to the Contractor without requiring the furnishing of such releases or receipts and any payments so made shall in no wise impair the obligations of any surety or sureties furnished under this Contract.
- (3) Withholding of any amount due the Owner under Section entitled "Liquidated Damages", GENERAL CONDITIONS, shall be deducted from the final payment due the Contractor.

C. Withholding Payments

The Owner may withhold from any payment otherwise due the Contractor so much as may be necessary to protect the Owner and if it so elects may also withhold any amounts due from the Contractor to any subcontractors or material dealers, for work performed or material furnished by them. The foregoing provisions shall be construed solely for the benefit of the Owner and will not require the Owner to determine or adjust any claims or disputes between the Contractor and his subcontractors or material dealers, or to withhold any moneys for their protection unless the Owner elects to do so. The failure or refusal of the

Owner to withhold any moneys from the Contractor shall in no wise impair the obligations of any surety or sureties under any bond or bonds furnished under this Contract.

D. Payments Subject to Submission of Certificates

Each payment to the Contractor by the Owner shall be made subject to submission by the Contractor of all written certifications required of him and his subcontractors.

9. CHANGES IN THE WORK

- A. The Owner may make changes in the scope of the work required to be performed by the Contractor under the Contract or making additions thereto, or by omitting work therefrom, without invalidating the Contract, and without relieving or releasing the Contractor from any of his obligations under the Contract or any guarantee given by him pursuant to the Contract provisions, and without affecting the validity, of the guaranty bonds, and without relieving or releasing the surety or sureties of said bonds. All such work shall be executed under the terms of the original Contract unless it is expressly provided otherwise.
- B. Except for the purpose of affording protection against any emergency endangering health, life, limb, or property, the Contractor shall make no change in the materials used or in the specified manner of constructing and/or installing the Improvements or supply additional labor, services or materials beyond that actually required for the execution of the Contract, unless in pursuance of a written order from the Owner authorizing the Contractor to proceed with the change. No claim for an adjustment of the Contract Price, will be valid unless so ordered.
- C. If applicable unit prices are contained in the Agreement (established as a result of either a Unit Price or a Supplemental Schedule of Unit Prices) the Owner may order the Contractor to proceed with desired changes in the work, the value of such changes to be determined by the measured quantities involved and the applicable unit prices specified in the Contract.
- D. If applicable unit prices are not contained in the Agreement the Owner shall, before ordering the Contractor to proceed with desired changes, request an itemized proposal from him covering the work involved in the change after which the procedure shall be as follows:
- (1) If the proposal is acceptable the Owner will prepare the change order in accordance therewith for acceptance by the Contractor; and
 - (2) If the proposal is not acceptable and prompt agreement between the two parties cannot be reached, the Owner may order the Contractor to proceed

with the work based on actual cost, by keeping a correct account, including all vouchers for:

- (a) Labor, including foreman.
- (b) Materials entering permanently into the work.
- (c) Owner or rental cost of power tools and construction equipment actually used.
- (d) Power and consumable supplies for operation of power equipment.
- (e) Pro-rata charges for insurance covering public liability, Workmen's Compensation, Medicare and unemployment, also Social Security.

To these costs in "a" through "e" above shall be added a fixed fee for combined overhead and profit, not to exceed fifteen percent (15%) of the above items except that actual cost only will be allowed for Social Security, Medicare and unemployment insurance. The allowance for combined overhead and profit thus calculated shall be only such allowance included in the total cost to the Owner.

(3) Each change order shall include in its final form:

- (a) A detailed description of the change in the work.
- (b) The Contractor's proposal, if any, or a conformed copy thereof.
- (c) A definite statement as to the resulting change in the contract price and/or time.
- (d) The statement that all work involved in the change shall be performed in accordance with contract requirements except as modified by the change order.

10. CLAIMS FOR EXTRA COST

- A. If the Contractor claims that any instructions by Drawings or otherwise involve extra cost of extension of time, he shall, within ten (10) days after the receipt of such instructions, and in any event before proceeding to execute the work, submit his protest thereto in writing to the Owner, stating clearly and in detail the basis of his objections. No such claim will be considered unless so made.
- B. Claims for additional compensation for extra work, due to alleged errors in ground elevations, contour lines, or bench marks, will not be recognized unless accompanied by certified survey data, made prior to the time the original ground was disturbed, clearly showing that errors exist which resulted, or would result, in handling more material, or performing more work, than would be reasonably estimated from the Drawings and maps issued.
- C. Any discrepancies which may be discovered between actual conditions and those represented by the Drawings and maps shall at once be reported to the Owner and

work shall not proceed except at the Contractor's risk, until written instructions have been received by him from the Owner.

- D. If, on the basis of the available evidence, the Owner determines that an adjustment of the Contract Price and/or Time is justifiable, the procedure shall be as provided in "Section 9" hereof.

11. TERMINATION, DELAYS, AND LIQUIDATED DAMAGES

A. Termination of Contract. The Owner may terminate this Contract any time by a notice in writing from the Owner to the Contractor. If the Contract is terminated by the Owner as provided herein, the Contractor will be paid an amount which bears the same ratio to the total compensation as the services of the Contractor covered by this Contract, less payments of compensation previously made; provided, however, that if less than sixty percent of the services covered by this Contract have been performed upon the effective date of such termination, the Contractor shall be reimbursed (in addition to the above payment for that portion of the actual out-of-pocket expenses not otherwise reimbursed under this Contract) incurred by the Contractor during the Contract period which are directly attributable to the uncompleted portion of the services covered by this Contract.

B. Liquidated Damages for Delays.

(1) The work which the Contractor is required to perform under this Contract shall be commenced at the time stipulated by the Local Public Agency in the NOTICE-TO-PROCEED and shall be fully completed within the time frame accepted by the Local Public Agency as indicated on the Bid Proposal document.

(2) As actual damages for any delay in completion of the work which the Contractor is required to perform under this Contract are impossible to determine, the Contractor and his sureties shall be liable for and shall pay to the Local Public Agency the sum of _____ as fixed, agreed and liquidated damages for each calendar day of delay from the above date stipulated for completion, or as modified in accordance with Section – CHANGES IN WORK under GENERAL CONDITIONS, until such work is satisfactorily completed and accepted.

C. Excusable Delays. The right of the Contractor to proceed shall not be terminated nor shall the Contractor be charged with liquidated damages for any delays in the completion of the work due:

(1) To any acts of the Government, including controls or restrictions upon or requisitioning of materials, equipment, tools, or labor by reason of war, National Defense, or any other national emergency;

(2) To any acts of the Owner;

- (3) To causes not reasonably foreseeable by the parties to this Contract at the time of the execution of the Contract which are beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God or of the Public enemy, acts of another Contractor in the performance of some other contract with the Owner, fires, floods, epidemics, quarantine, restrictions, strikes, freight, embargoes, and weather or unusual severity such as hurricanes, tornadoes, cyclones and other extreme weather conditions; and
- (4) To any delay of any subcontractor occasioned by any of the causes specified in sub-paragraphs (2) and (3) of this paragraph "C".

Provided, however, that the Contractor promptly notify the Owner within ten (10) days writing of the cause of the delay upon receipt of such notifications the Owner shall ascertain the facts and the cause and extent of delay. If, upon the basis of the facts and the terms of this Contract, the delay is properly excusable, the Owner shall extend the time for completing the work for a period of time commensurate with the period of excusable delay.

12. ASSIGNMENT OR NOVATION

The Contractor shall not assign or transfer, whether by an assignment or novation, any of its rights, duties, benefits, obligations, liabilities, or responsibilities under this Contract without the written consent of the Owner; provided, however, that assignments to banks, trust companies, or other financial institutions may be made without the consent of the Owner. No assignment or novation of this Contract shall be valid unless the assignment or novation expressly provides that the assignment of any of the Contractor's rights or benefits under the Contract is subject to a prior lien for labor performed, services rendered, and materials, tools, and equipment supplied for the work under this Contract in favor of all persons, firms, or corporations rendering such labor or services or supplying such materials, tools or equipment.

13. DISPUTES

- A. All disputes arising under this Contract or its interpretation, whether involving law or fact or dispute, be presented by the Contractor to the Owner for decision. Such notice need not detail the amount of the claim but shall state the facts surrounding the claim in sufficient detail to identify the claim together with its character and scope. In the meantime the Contractor shall proceed with the work as directed. Any claim not presented within the time limit specified in this paragraph shall be deemed to have been waived, except that if the claim is of a continuing character and notice of the claim is not given within ten (10) days of its commencement, the claim will be considered only for a period commencing ten (10) days prior to the receipt of the Owner of notice thereof.

- B. The Contractor shall submit in detail his claim and his proof thereof. Each decision by the Owner will be in writing and will be mailed to the Contractor by registered or certified mail, return receipt requested, directed to his last known address.
- C. If the Contractor does not agree with any decision of the Owner, he shall in no case allow the dispute to delay the work but shall notify the Owner promptly that he is proceeding with the work under protest and he may then except the matter in question from the final release.
- D. If any dispute, claim or question arises under the contract which cannot be settled by the Owner and the Contractor, the parties will use their best efforts to resolve the dispute amicably within fifteen (15) calendar days. If the dispute cannot be settled amicably, the parties agree that the dispute shall be subject to nonbinding mediation in accordance with the mediation rules of the American Arbitration Association or similar dispute resolution organization if the parties expressly agree. The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in Kingsport, Tennessee, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. If the parties do not resolve a dispute through mediation, the method of binding dispute resolution shall be for a party to file litigation in the state courts for Kingsport, Sullivan County, Tennessee. The exclusive venue and jurisdiction for any such disputes shall be in state courts for Kingsport, Sullivan County, Tennessee. Both parties specifically waive their right to a jury trial to resolve any and all claims, including but not limited to those sounding in contract, tort, or statute, against the other arising out of or connected in any way to the Project or this Agreement because the parties hereto believe that the complex commercial and professional aspects of their dealings with one another make a jury determination neither desirable nor appropriate.

14. TECHNICAL SPECIFICATIONS AND DRAWINGS

Anything mentioned in the Technical Specifications and not shown on the Drawings or shown on the Drawings and not mentioned in the Technical Specifications, shall be of like effect as if shown on or mentioned in both. In case of difference between Drawings and Technical Specifications, the Technical Specifications shall govern. In case of any discrepancy in Drawings, or Technical Specifications, the matter shall be immediately submitted to the Owner, without whose decision, said discrepancy shall not be adjusted by the Contractor, save only at his own risk and expense.

15. SHOP DRAWINGS

- A. All required shop drawings, machinery details, layout drawings, etc., shall be submitted to the Engineer in two (2) copies for approval sufficiently in advance of requirements to afford ample time for checking, including time for correcting, re-

submitting and rechecking if necessary. The Contractor may proceed, only at his own risk, with manufacturer or installation of any equipment work covered by said shop drawings, etc., until they are approved and no claim by the Contractor for extension of the contract time will be granted by reason of his failure in this respect.

- B. Any drawings submitted without the Contractor's stamp of approval will not be considered and will be returned to him for proper re-submission. If any drawings show variations from the requirements of the Contract because of a standard shop practice or other reason, the Contractor shall make specific mention of such variation in his letter of transmittal in order that, if acceptable, suitable action may be taken for proper adjustment of contract price and/or time otherwise the Contractor will not be relieved of the responsibility for executing the work in accordance with the Contract even though the drawings have been approved.
- C. If a shop drawing is in accord with the contract or involves only a minor adjustment in the interest of the Owner not involving a change in contract price or time, the Engineer may approve the drawing. The approval shall be general, shall not relieve the Contractor, from his responsibility for adherence to the contract or for any error in the drawing and shall in substance the following:

“The modification shown on the attached drawing is approved in the interest of the Owner to effect an improvement for the Project and is ordered with the understanding that it does not involve any change in the contract price or time; that it is subject generally to all Contract stipulation and covenants; and that it is without prejudice to any and all rights of the Owner under the Contract and surety bond or bonds.”

16. REQUESTS FOR SUPPLEMENTARY INFORMATION

It shall be the responsibility of the Contractor to make timely requests to the Owner for any additional information not already in his possession which should be furnished by the Owner under the terms of this Contract, and which he will require in the planning and execution of the work. Such requests may be submitted from time to time as the need is approached, but each shall be filed in ample time to permit appropriate action to be taken by all parties involved so as to avoid delay. Each request shall be in writing, and list the various items and the latest date by which each will be required by the Contractor. The first list shall be submitted within two weeks after Contract award and shall be as complete as possible at that time. The Contractor shall, if requested, furnish promptly any assistance and information the Engineer may require in responding to these requests of the Contractor. The Contractor shall be fully responsible for any delay in his work or to others arising from his failure to comply fully the provisions of this Section.

17. MATERIALS AND WORKMANSHIP

- A. Unless otherwise specifically provided for in the Technical Specifications, all workmanship, equipment, materials and articles incorporated in the work shall be new and the best grade of the respective kinds of the purpose, where equipment, materials, articles or workmanship are referred to in the Technical Specifications as “equal” to any particular standard, the Engineer, shall decide the questions of quality.
- B. The Contractor shall furnish to the Owner for approval the manufacturers detailed specifications for all machinery, mechanical, and other special equipment, which he contemplates installing together with full information as to type, performance characteristics, and all other pertinent information as required, and shall likewise submit for approval as required full information concerning all other materials or articles which he proposes to incorporate in the work.
- C. Machinery, mechanical and other equipment, materials or articles, installed or used without such prior approval shall be at the risk of subsequent rejection.
- D. Materials specified by reference to the number or symbol of a specific standard, such as an A.S-T.M. Standard, a Federal Specification or other similar standard, shall comply with requirements in the latest revision thereof and any amendment or supplement thereto in effect on the date of the Invitation for Bids, except as limited to type, class or grade, or modified in such reference. The standards referred to, except as modified in the Technical Specifications shall have full force and effect as though printed therein.
- E. The Owner may require the Contractor to dismiss from the work such employee or employees as the Owner may deem incompetent, or careless, or insubordinate.

18. SAMPLES, CERTIFICATES, AND TESTS

- A. The Contractor shall submit all material or equipment samples, certificates, affidavits, etc., as called for in the contract documents or required by the Engineer, promptly after award of the contract and acceptance of the Contractor’s bond. No such material or equipment shall be manufactured or delivered to the site, except at the Contractor’s own risk, until the required samples or certificates have been approved in writing by the Engineer. Any delay in the work caused by late or improper submission of samples or certificates for approval shall not be considered just cause for an extension of the contract time.

Each sample submitted by the Contractor shall carry a label with the name of the Contractor, the project for which it is intended, and the name of the producer. The accompanying certificate or letter from the Contractor shall state that the sample complies with contract requirements, shall give the name and brand of the

product, its place or origin, the name and address of the producer and all specifications or other detailed information which will assist the Engineer in passing upon the acceptability of the sample promptly. It shall also include the statement that all materials or equipment furnished for use in the project will comply with the samples and/or certified statements.

Approval of any materials shall be general only and shall not constitute a waiver of the Owner's rights to demand full compliance with Contract requirements. After actual deliveries, the Engineer will have such check tests made as he deems necessary in each instance and may reject materials and equipment and accessories for cause, even though such materials and articles have been given general approval. If materials, equipment or accessories which fail to meet check tests have been incorporated in the work, the Engineer will have the right to cause their removal and replacement by proper materials or to demand and secure such reparation by the Contractor as is equitable.

Except as otherwise specifically stated in the Contract, the costs of sampling and testing will be divided as follows:

- (1) The Contractor shall furnish without extra cost, including packing and delivery charges, all samples required for testing purposes, except those samples taken on the project by the Engineer;
- (2) The Contractor shall assume all costs of re-testing materials which fail to meet contract requirements;
- (3) The Contractor shall assume all costs of testing materials offered in substitution for those found deficient; and
- (4) The Owner will pay all other expenses.

19. PERMITS AND CODES

- A. The Contractor shall give all notices required by and comply with all applicable laws, ordinances, and codes of the local government. All construction work and/or utility installations shall comply with all applicable ordinances, and codes including all written waivers. Before installing any work, the Contractor shall examine the Drawings and Technical Specifications for: compliance with applicable ordinances or codes, the Owner will adjust the Contract by Change Order to conform to such ordinances or codes (unless waivers in writing covering the difference have been granted by the governing body or department) and make appropriate adjustment in the Contract Price or stipulated prices.

Should the Contractor fail to observe the foregoing provisions and proceed with the construction and/or install any utility at variance with any applicable ordinance or code, including any written waivers (notwithstanding the fact that

such installation is on compliance with the Drawings and Technical Specifications), the Contractor shall remove such work without cost to the Owner, but a Change Order will be issued to cover only the excess cost the Contractor would have been entitled to receive if the change had been made before the Contractor commenced work on the items involved.

- B. The Contractor shall at his own expense, secure and pay to the appropriate department of the local government the fees or charges for all permits for street pavement, sidewalks, sheds, removal of abandoned water taps, sealing of house connection drains, pavement cuts, buildings, electrical, plumbing, water, gas, and sewer permits required by the local regulatory body or any of its agencies.
- C. The Contractor shall comply with applicable local laws and ordinances governing the disposal of surplus excavation, materials, debris and rubbish on or off the Project Area and commit no trespass on any public or private property in any operation due to or connected with the Improvements embraced in this Contract.

20. CARE OF WORK

- A. Preservation of Existing Vegetation. Take reasonable care during construction to avoid damage to vegetation. Where the area to be excavated is occupied – be trees, brush, or other uncultivated vegetable growth – clear such growth from the area, and dispose of it in a satisfactory manner. Leave undisturbed any trees, cultivated shrubs, flowers, etc., situated within public rights-of-way and/or easements through private property but not located directly within excavation limits. Transplant small ornamental trees, cultivated shrubs, flowers, etc., located directly within excavation limits so they may be replaced during property restoration operations. Do not remove or disturb any tree larger than six inches (6") in diameter without the permission of the A/E. Take special precautions (including the provision of barricades and the temporary tying back of shrubbery and tree branches) for the protection and preservation of such object throughout all stages of construction; the Contractor will be held liable for any damage that may result to said objects from excavation or construction operations. Trim any limbs or branches of trees broken during construction operations with a clean cut, and paint with an approved tree-pruning compound. Treat tree trunks receiving damage from equipment with a tree dressing.
- B. Pre-blast Survey. The Contractor shall conduct a pre-blast survey of the Surrounding structures within a minimum of 300' of any blasting operation and document condition before any blasting begins. The documentation will include written descriptions, photographs of the structures, and measures of obvious signs of structural distress such as cracks. NOTE: These are minimum acceptable limits and bidding Contractors may exceed these limits for his own liability.

- C. The Contractor shall be responsible for all damages to person or property that occur as a result of his fault or negligence in connection with the protection of all materials delivered and work performed until completion and final acceptance, whether or not the same has been covered in whole or in part by payments made by the Owner.
- D. In an emergency affecting the safety of life, limb or property, including adjoining property, the Contractor, without special instructions or authorization from the Owner, is authorized to act at his discretion to prevent such threatened loss or injury, and he shall so act. He shall likewise act if instructed to do so by the Owner. Any compensation claimed by the Contractor on account of such emergency work will be determined by the Owner as provided in Section "9" hereof.
- E. The Contractor shall avoid damage as a result of his operations to existing sidewalks, streets, curbs, pavements, utilities (except those which are to be replaced or removed), adjoining property, etc., and he shall at his own expense completely repair any damage thereto caused by his operations.
- F. The Contractor shall shore up, brace, underpin, secure, and protect as may be necessary, all foundations and other parts of existing structures adjacent to, adjoining, and in the vicinity of the site, which may be in any way affected by the excavations or other operations connected with the construction of the Improvements embraced in the Contract. The Contractor shall be responsible for the giving of any and all notices to any adjoining or adjacent property owner or other party before the commencement of any work. The Contractor shall indemnify and save harmless the Owner from any damages on account of settlements or the loss of lateral damages on account support of adjoining property and from all loss or expense and all damages for which the Owner may become liable in consequence of such injury or damage to adjoining and adjacent structures and their premises.

21. ACCIDENT PREVENTION

- A. The Contractor shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the site, which occur as a result of his prosecution of the work. The safety provisions of applicable laws and building and construction codes shall be observed and the Contractor shall take or cause to be taken such additional as necessary. Machinery, equipment and all hazards shall be guarded in accordance with the safety provisions of "Manual of Accident Prevention in Construction" published by the Associated General Contractors of America, Inc., to the extent that such provisions are not in conflict with applicable local laws.

- B. The Contractor shall maintain an accurate record of all cases of death, occupational disease, or injury requiring medical attention or causing loss of time from work, arising out of and in the course of employment on work under the Contract. The Contractor shall promptly furnish the Local Public Agency with reports concerning these matters.

The Contractor shall defend, indemnify and save harmless the Owner from any and all claims and suits for damages resulting from property damage, personal injury and/or death suffered or alleged to have suffered by any person or property arising out of any work conducted under this Contract caused by the acts or omissions of the Contractor, its agent, employees or subcontractors, excepting bodily injury or property damage caused by the sole negligence of the Owner, its agents or employees.

22. SANITARY FACILITIES

The Contractor shall furnish, install, and maintain ample sanitary facilities for the workmen. As the needs arise, a sufficient number of enclosed temporary toilets shall be conveniently placed as required by the sanitary codes of the State and Local Government. Drinking water shall be provided from an approved source, so piped or transported as to keep it safe and fresh and served from single service containers or satisfactory types of sanitary drinking stands or fountains. All such facilities and services shall be furnished in strict accordance with existing and governing health regulations.

23. USE OF PREMISES

- A. The Contractor shall confine his equipment, storage of materials, and construction operations to the Contract Limits as shown on the Drawings as prescribed by ordinances or permits, or as may be desired by the Owner and shall not unreasonably encumber the site or public rights-of-way with his materials and construction equipment.
- B. The Contractor shall comply with all reasonable instructions of the Owner and the ordinances and codes of the local government, regarding signs, advertising, traffic, fires, explosives, danger signals and barricades.

24. REMOVAL OF DEBRIS, CLEANING, ETC.

The Contractor shall, periodically or as directed during the progress of the work, remove and legally dispose of all surplus excavated material and debris, and keep the Project Area and public rights-of-way reasonably clear. Upon completion of the work, he shall remove all temporary construction facilities, debris and unused materials provided for the work. The site of the work will be subject to prior approval of the Owner and existing State and local regulations.

25. INSPECTION

- A. All materials and workmanship shall be subject to inspection, examinations, or test by the Owner at any and all times during manufacture or construction and at any and all places where such manufacture or construction is carried on. The Owner shall have the right to reject defective material and workmanship or require its correction. Unacceptable workmanship shall be satisfactorily corrected. Rejected material shall be promptly segregated and removed from the Project Area and replaced with materials of specified quality without charge therefore. If the Contractor fails to proceed at once with the correction of rejected workmanship or defective material, the Owner may contract or otherwise have the defects remedied or rejected materials removed from the Project Area and charge the cost of the same against any moneys which may be due the Contractor, without prejudice to any other rights or remedies of the Owner.

The Contractor shall furnish promptly all materials reasonably for any tests which may be required. All tests by the Owner will be performed in such a manner as not to delay the work unnecessarily and will be made in accordance with the provisions of the Technical Specifications.

- B. The Contractor shall notify the Owner sufficiently in advance of backfilling or concealing any facilities to permit proper inspection. If any facilities are concealed without approval or consent of the Owner, the Contractor shall uncover for inspection and recover such facilities all at his own expense, when so requested by the Owner.

Should it be considered necessary or advisable by the Owner at any time before final acceptance of work already completed by uncovering the same, the Contractor shall on request promptly furnish all necessary facilities, labor, and material. If such is found to be defective in any important or essential respect due to fault of the Contractor or his subcontractors, the Contractor shall defray all the expenses of such examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the Contract, the actual cost of labor and material necessarily involved in the examination and replacement, plus 15 percent (15%) of such costs to cover superintendence, general expenses and profit, shall be allowed the Contractor and he shall, in addition, if completion of the work of the entire Contract has been delayed thereby, be granted a suitable extension of time on account of the additional work involved.

- C. Inspection of materials and appurtenances to be incorporated in the Improvements embraced in this Contract may be made at the place of production, manufacture or shipment, whenever the quantity justifies it, and such inspection and acceptance, unless otherwise stated in the Technical Specifications, shall be final, except as regards: (1) Latent defects; (2) Departures from specific requirements of the

Contract; (3) Damage of loss in transit; or (4) Fraud or such gross mistakes as amount to fraud. Subject to the requirements contained in the preceding sentence, the inspection of materials as a whole or in part will be made at the Project Site.

- D. Neither inspection, testing, approval nor acceptance of the work in whole or in part, by the Owner or its agents shall relieve the Contractor or his sureties of full responsibility for materials furnished or work performed not in strict accordance with the Contract.

26. REVIEW BY OWNER

The Owner, its authorized representatives and agents, will at all times have access to and be permitted to observe and review all work, materials, equipment, payrolls, personnel records, employment conditions, material invoices, and other relevant data and records pertaining to this Contract, provided however, that all instructions and approval with respect to the work will be given to the Contractor only by the Owner through its authorized representatives or agents.

27. FINAL INSPECTION

When the Improvements embraced in this Contract are substantially completed, the Contractor shall notify the Owner in writing that the work will be ready for final inspection on a definite date which shall be stated in the notice. The notice will be given at least ten (10) days prior to the date stated for final inspection and bear the signed concurrence of the represented, it will make the arrangements necessary to have final inspection commenced on the date stated in the notice, or as soon thereafter as is practicable. The inspection party will also include the representatives or each department of the local government having in charge, improvements of like character when such Improvements are later to be accepted by the local government.

28. DEDUCTION FOR UNCORRECTED WORK

If the Owner deems it not expedient to require the Contractor to correct work not done in accordance with the Contract Documents, an equitable deduction from the Contract Price will be made by agreement between the Contractor and the Owner and subject to settlement, in case of dispute, as herein provided.

29. INSURANCE

- A. Supplement as follows:

The Contractor shall not commence work under this Contract until he has obtained all the insurance required under this paragraph and such insurance has been approved by the Owner, nor shall the Contractor allow any subcontractor to commence work on his subcontract until the insurance of the subcontractor has been so obtained and approved.

The successful Contractor will furnish the Owner with Certificates of Insurance or policies and maintain the following insurance in such form as shall be satisfactory to the Owner. All Certificates of Insurance and policies shall contain the following clause:

“The insurance covered by this Certificate will not be canceled or materially altered, except after ten (10) days written notice has been received by the Owner.”

B. Workmen’s Compensation – Which shall provide protection against any liability imposed by the Workmen’s Compensation law of the state in which the work is performed.

C. Comprehensive General Public Liability – Such insurance shall be in at least the following amounts:

Bodily Injury with limits of \$500,000/\$1,000,000 Property Damage with limits of \$500,000/\$1,000,000

D. Comprehensive Automobile Liability:

Bodily Injury - \$500,000/\$1,000,000
Property Damage - \$500,000/\$1,000,000

E. Owner’s Liability – Contractor hereby agrees to indemnify and save harmless the Owner from all claims and suits for injury or destruction of property and from all expenses in defending said claims and suits, including court costs, attorney’s fees and other expenses caused in anyway by the acts or omissions of the Contractor or the Contractor’s agents, employees or subcontractors during or in connection with said work, excepting on the property damage and bodily injury or death caused by the sole negligence of the Owner, its agents or employees. Limits will be as follows:

Bodily Injury - \$500,000/\$1,000,000
Property Damage - \$500,000/\$1,000,000

Contractor shall provide in the name of the Owner, Owner’s and Contractor’s Protective Liability Insurance in amounts as designated in paragraph “D” above.

F. Builder’s Risk Insurance (Fire and Extended Coverage) – Vandalism and Malicious Mischief: On a 100% Completed Value Basis on the insurable portions of the project, if needed.

30. PATENTS

The Contractor shall hold and save the Owner, its officers and employees, harmless from liability of any nature or kind, including costs and expenses, for, or on account of, any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the Contract, including its use by the Owner, unless otherwise specifically stipulated in the Technical Specifications.

31. WARRANTY OF TITLE

No material, supplies, or equipment to be installed or furnished under this Contract shall be purchased subject to any chattel mortgage or under a conditional sale, lease purchase or other agreement by which an interest therein or in any part thereof is retained by the seller or supplier. The Contractor shall warrant good title to all materials, supplies, and equipment installed or incorporated in the work and upon completion of all work, shall deliver the same together with all improvements and appurtenance constructed or placed thereon by him to the Owner free from any claims, liens, or charges. Neither the Contractor nor any person, firm or corporation furnishing any material or labor for any work covered by this Contract shall have any right to a lien upon any improvement or appurtenance thereon. Nothing contained in this paragraph, however, shall defeat or impair the right of persons furnishing materials or labor to recover under any bond given by the Contractor for their protection or any rights under any law permitting such persons to look to funds due the Contractor in the hands of the Owner. The provisions of this paragraph shall be inserted in all subcontracts and material contracts and notice of its provisions shall be given to all persons furnishing materials for the work when no formal contract is entered into for such materials.

32. GENERAL GUARANTY

Neither the final certificate or payment nor any provision in the Contract nor partial or entire use of the Improvements embraced in this Contract by the Owner or the public shall constitute an acceptance of work not done in accordance with the Contract or relieve the Contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship. The Contractor shall promptly remedy any defects in the work and pay for any damage to other work resulting therefrom which shall appear within a period of twelve (12) months from the date of final acceptance of the work. The Owner will give notice of defective materials and work with reasonable promptness.

33. INTEREST OF MEMBERS OF THE CITY

No member of the Owner and no other officer, employee, or agent of the Owner, who exercises any functions or responsibilities in connection with the carrying out of the Project to which this Contract pertains shall have any personal interest, direct or indirect, in this Contract.

34. INTEREST OF CERTAIN FEDERAL OFFICIALS

No member of or delegate to the Congress of the United States, and no Resident Commissioner, shall be admitted to any share or part of this Contract or to any benefit to arise herefrom when Federal funding is involved.

SPECIAL CONDITIONS

1. THE PROJECT SITE

The Project Area for this document hereof consists of the area as shown on the drawings or elsewhere within this document.

2. TIME FOR COMPLETION

The work which the Contractor is required to perform under this Contract shall be commenced at the time stipulated by the Owner in the NOTICE TO PROCEED and shall be fully completed within time frame accepted by Owner and stated in the Contract.

3. LIQUIDATED DAMAGES

As actual damages for any delay in completion of the work which the Contractor is required to perform under this Contract are impossible of determination, the Contractor and his Sureties shall be liable for and shall pay to the Owner the sum of _____ as fixed, agreed and liquidated damages for each calendar day of delay from the above date stipulated for completion, or as modified in accordance with Section "Changes in Work" under GENERAL CONDITIONS, until such work is satisfactorily completed and accepted.

4. RESPONSIBILITIES OF CONTRACTOR

Except as otherwise specifically stated in the Contract Documents and Technical Specifications, the Contractor shall provide and pay for all materials, labor, tools, equipment, water, light, heat, power, transportation, superintendence, temporary construction of every nature, charges, levies, fees, or other expenses and all other services and facilities of every nature whatsoever necessary for the performance of the Contract and to deliver all improvements embraced in this Contract complete in every respect within the specified time.

5. COMMUNICATIONS

A. Written Requests by the City Engineer – Failure by the Contractor to comply with written requests by the City Engineer shall be a direct violation of his Contract and no further progress payments will be made by the City until such time as those requests are satisfied. The Engineer shall in all cases determine the amount,

quality, acceptability, and fitness of the several kinds of finished work and materials which are to be paid for hereunder, shall decide all questions which may arise as to fulfillment of this Contract on the part of the Contractor, and the Engineer interpretation of the Contract and the Engineer's determination and decision thereon shall be final and conclusive; such determinations and decisions, in case any questions arises, shall be a condition precedent to the Contractor's right to receive any money hereunder.

- B. All notices, demands, requests, instructions, approvals, proposals, and claims must be in writing.
- C. Any notice to or demand upon the Contractor shall be sufficiently given if delivered at the office of the Contractor stated on the signature page of the Agreement (or at such other office as the Contractor may from time to time designate in writing to the Owner), or is deposited in the United States mail in a sealed, postage-prepaid envelope, or delivered with charges prepaid to any telegraph company for transportation, in each case addressed to such office.
- D. All pages required to be delivered to the Owner shall, unless otherwise specified in writing to the Contractor, be delivered to the following:

City of Kingsport
225 W. Center Street
Kingsport, TN 37660

And any notice to demand upon the Owner shall be sufficiently given if so delivered, or if deposited in the United States mail in a sealed, postage-prepaid envelope, or delivered with charges prepaid to any telegraph company for transmission to said Owner at such address, or to such other representatives of the Owner or to such other addresses as the Owner may specify in writing to the Contractor for such purpose.

- E. Any such notice shall be deemed to have been given as to the time of actual delivery or (in the case of mailing) or in the case of telegrams, at the time of actual receipt, as the case may be.

6. JOB OFFICES

- A. The Contractor and his subcontractors may maintain such office and storage facilities on the Site as are necessary for the proper conduct of the work. These shall be located so as to cause no interference to any work to be performed on the Site. The Owner shall be consulted with regard to locations.

- B. Upon completion of the Improvements, or as directed by the Owner, the Contractor shall remove all such temporary structures and facilities from the Site, same to become his property, and leave the Site of the work in the condition required by the Contract.

7. PARTIAL USE OF SITE IMPROVEMENTS

The Owner, at its election, may give notice to the Contractor and place in use those sections of the Improvements which have been completed, inspected and can be accepted as complying with the Technical Specifications and if in its opinion, each such section is reasonable safe, fit and convenient, for the use and accommodation for which it was intended provided:

- A. The use of such sections of the Improvements shall in no way impede the completion of the remainder of the work by the Contractor;
- B. The Contractor shall not be responsible for any damages or maintenance costs due directly to the use of such sections;
- C. The use of such sections shall in no way relieve the Contractor of his liability due to having used defective materials or to poor workmanship;
- D. The period of guarantee stipulated in the Section "General Guaranty" under GENERAL CONDITIONS, shall not begin to run until the date of the final acceptance of all work which the Contractor is required to construct under this Contract.

8. WORK BY OTHERS

- A. It is the responsibility of this Contractor to coordinate his schedule, layout of work and construction operations, with the Engineer and/or this Contractor.
- B. It shall be the responsibility of this Contractor to coordinate his operations with the various other affected Contractors, departments or others, or their Contractors, through the Owner, who will make all formal requests to other Contractors or the departments for installation, removal, relocation or adjustment of facilities. Any such requests by the Contractor or subcontractor not made as above directed, shall make him liable for the work performed in response to such request.
- C. In the case of the installation of underground utilities in new roadbeds (water, sewer, gas, street lighting, telephone circuits), the Contractor shall make available

substantial sections of the completed sub-grade for the installation of said utilities and allow sufficient time for their installation prior to commencement of paving operations, and the coordination of such work will be as directed in Paragraph "C" above, NO PAVING WORK SHALL BE DONE WITHOUT THE EXPRESS CONSENT IN WRITING OF THE ENGINEER.

9. ADJUSTMENT OF UTILITIES

The adjustment of all utility castings, manholes, valve boxes and sanitary sewers and water line to finish grade shall be the responsibility of this Contractor.

10. MAINTAINING TRAFFIC

- A. One lane of traffic shall be free for travel at all times and maintained with all safety regulations as required by the Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways – Traffic Engineering Division – latest edition.
- B. The operations under this Contract shall be scheduled and conducted in such a manner and sequence as to cause the least practicable interference with the traveling public, fire protection service and public utility service.
- C. Proposed schedules which require the complete closing of a public street will be submitted in writing to the Engineer, and shall state the estimated duration of the closure. Said street shall not be closed until approval is granted.
- D. The Contractor shall provide sufficient signs, (warning and detour), barricades, flares and flagmen as set forth in MTUD, TDOT to properly safeguard the public, and in the event this is not done after direct instructions from the Engineer, the Owner shall have the right to provide the necessary item and deduct the expense of same from payment due the Contractor.
- E. The Contractor's responsibility for maintaining traffic on each particular street shall cease with acceptance of the Contractor's work on that street.

11. CONTRACT DOCUMENTS AND WORKING DRAWINGS

The Owner will furnish the Contractor without charge three (3) copies of the Contract Documents, including Technical Specifications and working Drawings. Additional copies requested by the Contractor will be furnished at cost.

12. LAYOUT OF WORK

The Engineer shall provide field location and grade staking as follows:

- A. For sanitary sewer projects, the Engineer shall provide stakes at the centerline of all manholes and two offset stakes with grades for each manhole. Benchmarks will be provided as deemed necessary by the Engineer.
- B. For storm sewer projects, the Engineer shall provide stakes at the centerline of all manholes or catch basins, and two offset stakes with grades for each manhole or catch basin. Benchmarks will be provided as deemed necessary by the Engineer.
- C. For road improvement projects, the Engineer shall provide benchmarks as deemed necessary.
- D. For site grading, the Engineer will not provide staking. Benchmarks shall be provided as deemed necessary by the Engineer.
- E. Engineer's cost to restaking due to the Contractor's error or neglect shall be charged to the Contractor. Restaking due to alignment or grade changes made by the Engineer shall be furnished without cost.

13. TEST TO BE FURNISHED

The Contractor will furnish the Owner with copies of all routine mill and quality control tests requested without cost to the Owner.

C O N T R A C T

This Contract, made and entered into on this the _____, by and between the CITY OF KINGSPORT, TENNESSEE, a municipal corporation, duly organized and existing under and by virtue of the laws of the State of Tennessee, with situs in Sullivan County, Tennessee, hereinafter referred to as the City, and _____, hereinafter referred to as the Contractor.

W I T N E S S E T H:

WHEREAS, the City has taken all steps required by law for the construction of certain improvements, to-wit:

all in a proper and workman like manner as set forth herein; and has advertised, requested and received bids, as required by law, which bids, being sealed, were opened on the _____; and the City, by its Board of Mayor and Aldermen, rejected all other bids or proposals, and accepted the proposal or bid of the Contractor herein, all of which is set forth in the minutes of said meeting, to which reference is here made.

NOW, THEREFORE, in consideration of the promises, and for the further considerations hereinafter mentioned, this Contract is hereby mutually understood and agreed to by and between the parties hereto for themselves, their personal representatives, successors and/or assigns.

SECTION 1. SCOPE OF THE CONTRACT. The Contractor shall furnish all the materials and will perform all the work as provided by the following enumerated plans, specifications and documents, which are attached hereto and made a part hereof, as it is fully copied and contained herein:

1. Bids Wanted as published in the "Kingsport Times-News" on _____.
2. Specifications on file in the office of the City Manager and previously sent to the Contractor.

The Contractor shall defend, indemnify and save harmless the City of Kingsport from any and all claims and suits for injury to person or property arising out of the performance of this Contract, caused by the acts or omissions of the Contractor, its agents, employees or sub-Contractors, excepting bodily injury or property damage caused by the sole negligence of the City of Kingsport, its agents or employees.

SECTION 2. TIME OF COMPLETION. The work to be performed under this Contract shall be commenced within _____ calendar days after Notice of Acceptance and will be completed within _____ calendar days.

SECTION 3. THE CONTRACT PRICE. The City shall pay, in current fund, the Contractor for the performance of this Contract on the basis of the unit price cost per unit, as set forth in SECTION 1 above, and as set out and stipulated in the bid or proposal of said Contract, and the total cost of _____ is an estimated total cost, based upon the number of units required for the completion of this improvement and in the event there is any variation in the units actually required in the

performance of this Contract, and the estimate made above, then the unit price shall in all things control, so that the total estimated cost of _____ is subject to being increased in the event the units required for this improvement are greater than that estimated, and is subject to being decreased in the event said units are less than that estimated; which said payment, based upon the unit costs mentioned above, shall be full compensation for all materials and supplies furnished, and all labor done by the Contractor under and pursuant to this Agreement, and said sum shall also pay for all losses or damages of the Contractor arising out of the nature of the work, and for any and all expenses incurred in consequence of the work under this Contract, and for the well and faithful performance of said Contract.

SECTION 4. METHOD OF PAYMENT.

A. PARTIAL PAYMENTS. On or before the fifteenth day of each calendar month, the City shall make partial payments to the Contractor on the basis of a duly certified and approved estimate by the Contractor of the work satisfactorily executed and in place during the preceding calendar month, less five percent (5%) of such estimate, which five percent (5%) is to be retained by the City until all work has been performed strictly in accordance with this Contract and until such work has been accepted by the City.

Estimates may at any time be withheld or reduced if, in the opinion of the City, the work is not proceeding in accordance with the provision of the Contract. Ordinarily, estimates by the Contractor will be made at the end of each calendar month, and partial payments within fifteen days thereafter.

B. FINAL PAYMENT. The Contractor shall, within _____ after completion of this Contract, prepare a statement of the total cost of the work done hereunder, and the City shall pay the entire sum so found to be due hereunder, after deducting herefrom all previous payments and all amounts to be kept and all amounts to be retained under the provisions of this Contract. All prior partial payments and estimates shall be subject to correction in the statement of "Total Cost".

The Contractor obligates and binds himself for the payment of all bills incurred for the purchase of materials, equipment, tools, supplies and labor necessary for the construction of any and all of the improvements, and before final payment shall be due and payable, and as an express condition precedent thereto, the Contractor shall furnish the City satisfactory evidence showing that all bills for labor and material have been paid in full.

SECTION 5. BOND. The Contractor obligates and binds himself, his successors and assigns, to pay all bills incurred for the purchase of materials, tools, supplies and labor necessary for the full performance of this Contract, and covenants to and with the City, to execute on behalf of the City, surety bonds MARKED "A" and "B" made a part hereof, and reference is made to said two exhibits "A" and "B", which shall at all times during the life of this Contract guarantee the full and faithful performance of all the terms, conditions and covenants of this Contract together with the full and final payment and satisfaction of all obligations and bills incurred by the Contractor.

Bonds "A" and "B" shall be written by an agent representing some reputable insurance and bonding company authorized to do business in the State of Tennessee subject to approval by the City Attorney, City of Kingsport.

SECTION 6. INSURANCE. The Contractor aforesaid shall at all times keep in full force and effect, during the life of this Contract, Worker's Compensation Insurance in accordance with Title 50, Tennessee Code Annotated and all Amendatory Acts thereto, covering all of the employees during the progress of said construction work, and to furnish the City satisfactory evidence that he has in full force and effect such insurance on all of his employees used in the execution and carrying out the work under this Contract. Also, the Contractor shall have comprehensive general public liability insurance in amounts acceptable to the City. The Contractor will furnish comprehensive automobile liability insurance and furnish the City with certificates of insurance or policies and maintain the insurance in such form as shall be satisfactory to the City. The Contractor shall obtain and maintain Owners liability insurance specifically naming City as the insured to defend, indemnify and save harmless the City from any and all claims and suits for injury to persons, including death, or property damage arising out of the performance of the Contract caused in any way by the acts or omissions of the Contractor or the Contractor's agents, employees, or sub-Contractors during or in connection with the Contract work, excepting bodily injury or death or property damage caused by the sole negligence of the City, its agents or employees.

SECTION 7. SAFEGUARDS. The Contractor shall at all times during the progress and execution of said work to be done under the terms of this Contract, furnish and maintain all necessary signals and signs, safeguards and warning in, near and upon the place where said work is being done, so as to protect and prevent the public from being injured in any way or manner by reason of the construction of said improvements or work done in connection with and under the terms and provisions of this Contract.

IN WITNESS whereof the parties by their authorized agents have executed this contract.

CITY OF KINGSPORT, TENNESSEE

BY: _____

ATTEST:

RECORDER

APPROVED AS TO FORM:

CITY ATTORNEY

PERFORMANCE BOND

BOND "A"

STATE OF _____
COUNTY OF _____

We, _____ (herein called the "Contractor"), as Principal, and _____ do hereby acknowledge ourselves indebted and firmly bound and held unto the City of Kingsport, Tennessee, (hereinafter called the "Owner"), a Municipal Corporation existing under and by virtue of the laws of Tennessee, for the use and benefit of those entitled thereto, in the sum of _____ (\$ _____) dollars, for the payment of which well and truly to be made in lawful money of the United States, we do hereby bind ourselves, our successors and assigns, heirs and personal representatives.

BUT THE CONDITION OF THE FOLLOWING OBLIGATION OR BOND IS THIS WHEREAS, the Owner has engaged the said Contractor, for the sum of _____ (\$ _____) to construct the following improvements, to wit:

as more fully appears in a written agreement bearing the date of _____, a copy of which said agreement or contract is by reference hereby made a part of hereof, and it is the desire of the said Owner that the said Contractor shall assure all undertakings under said agreement or contract, and shall assure and protect all laborers and furnishers of material on said work as provided by Chapter 182 of the Acts of the General Assembly of Tennessee of 1899, and any and all amendments thereto, including, without being limited to, Chapter 121 of the Public Acts of 1923, and Chapter 121 of the Public Acts of 1925, all of which were codified and re-enacted in Sections 7955 to 7959, inclusive, of the Code of Tennessee of 1932, and also in dependently of said statutes.

NOW, THEREFORE, if the said Contractor shall fully and faithfully perform all the undertakings and obligations under the said agreement or contract hereinabove referred to and shall fully indemnify and save harmless the said Owner from any and all outlay and expense which it may incur in making good any default, and shall fully pay all the labor, material and work used by said Contractor or any immediate or remote sub-Contractor or furnisher of material under him in the performance of said contract, in lawful money of the United States as the same shall become due, then this obligation or bond shall be null and void, otherwise to remain in full force and effect.

And, for value received, it is hereby stipulated and agreed that no change, extension of time, alteration or addition to the terms of said agreement or contract or in the work to be performed thereunder or the specifications or drawings accompanying the same shall in any wise affect the obligations under this obligation or bond, and notice is hereby waived of any such change, extension of time, alteration or addition to the terms of the agreement or contract or to the work or to specifications.

In witness whereof the said Contractor has hereunto affixed its signature and said surety has hereunto caused to be affixed its corporate signature and seal, by its duly authorized officers on this the ____ day of _____, _____.

WITNESS:

PRINCIPAL

TITLE

WITNESS:

SURETY
BY: _____
ATTORNEY-IN-FACT

APPROVED AS TO FORM:

CITY ATTORNEY

PAYMENT BOND

BOND "B"

STATE OF _____
COUNTY OF _____

KNOW ALL MEN BY THESE PRESENTS THAT: WE, _____,
General Contractor, principal, and _____, as Surety, are held and firmly bound unto the City of Kingsport, Tennessee, and Patrick W. Shull, Paul W. Montgomery, Betsy Cooper, Darrell Duncan, Colette George, Tommy Olterman and James Phillips, members of the Board of Mayor and Aldermen of the City of Kingsport, Tennessee, and Chris McCartt, City Manager of said City, the persons having charge of letting of contract for the construction of certain improvements, to wit:

_____ in the penalty of _____ for the payment of which we bind ourselves, our several personal representatives and assigns, jointly, and individually, by these presents.

WITNESS our hands and seals on this _____ day of _____, _____

THE CONDITION OF THIS OBLIGATION IS SUCH, THAT: WHEREAS, General Contractor, who entered into an Agreement with the City of Kingsport, Tennessee, dated the _____ for the furnishing of all materials, equipment, tools, supplies and labor for the construction of certain improvements as set out in said agreement, which is incorporated herein by reference as if copies in full herein, and if the said principal, as Contractor, shall well, fully and truly perform all of the provisions of said agreement on his part and shall pay for all materials, equipment, tools, supplies and labor so used in the performance of said contract in lawful money of the United States and will furnish to the City satisfactory evidence of the fact of such payments therefore, and that no lien is claimed against the property of said City in which the same are incorporated, and/or furnish the City Manager with waivers of any liens that might exist therefore, then this obligation to be null and void; otherwise, to remain in full force and effect.

It is understood and agreed that this bond is executed in compliance with the provisions of, but not limited to, Chapter 182 of the Acts of the General Assembly of Tennessee for 1899, and/or any and all Acts amendatory thereof.

And, for value received, it is hereby stipulated and agreed by the surety that no change, extension of time, alteration or addition to the term of said agreement or contract or in the work to be performed thereunder or the contract documents accompanying the same shall in any wise affect the obligations and liabilities under this bond, and notice is hereby waived of any such change, extension of time, alteration or addition to the terms of the agreement or contract, the contract documents or to the work.

WITNESS THE SIGNATURES OF THE Principal and Surety on this the _____ day of _____, _____.

WITNESS:

PRINCIPAL

TITLE

WITNESS:

SURETY

BY: _____
ATTORNEY-IN-FACT

APPROVED AS TO FORM:

CITY ATTORNEY

CITY OF KINGSPORT, TENNESSEE
Contractor's Affidavit and Final Waiver of Lien

Instructions

1. This instrument will not be satisfactory or acceptable unless the following information is included:
 - The "County Of" shall be completed by the contractor's agent and indicate where the form is signed;
 - Company/Business name shall be as stated in signed Agreement/Contract;
 - Project name shall be as stated in signed Agreement/Contract;
 - Contractor's Affidavit and Final Waiver of Lien must be returned with original signatures prior to final payment; and
 - Facsimiles are not accepted.

2. The contractor's agent signature on the waiver should be in accordance with the following:
 - If a partnership, one of the partners must sign and show after his signature the fact that he is a partner;
 - If a corporation signed by an executive officer, the official title of such officer being placed after his signature and the corporate seal affixed;
 - A signature by one individual on behalf of another individual will not be accepted unless the waiver is accompanied by power of attorney showing the authority of such individual to sign on behalf of the other individual.

CONTRACTOR'S AFFIDAVIT AND FINAL WAIVER OF LIEN

STATE OF TENNESSEE

COUNTY OF _____

I, _____, being duly sworn, depose and state that I make this Affidavit and Final Waiver of Lien, as agent and on behalf of _____, and that I am fully authorized to do so.

NOW, THEREFORE, for and in consideration of the payment by the City of Kingsport, Tennessee to _____ (hereinafter Contractor) the sum of Ten Dollars (\$10.00) cash in hand paid and other good and valuable consideration, receipt of which is hereby acknowledged, the Contractor, through the undersigned, does hereby forever discharge and release the City of Kingsport, Tennessee from any and all mechanic's liens, claims or demands for payment for and on account of labor and materials furnished and rendered to the construction and arising from the furnishing of labor and materials for the improvement and construction of the following described Project:

The Contractor, through the undersigned, further warrants that it has paid all of its subcontractors, suppliers and materialmen for any and all labor, materials and services rendered in connection with the construction and improvement of the above-described project and that it has complied with all local, state and federal laws applicable to its work on the project. Additionally, the undersigned agrees to indemnify and hold harmless the City of Kingsport, Tennessee from and against any and all claims, damages, losses and expenses, including but not limited to attorney's fees arising out of or resulting from any non-payment by the undersigned to any subcontractor, supplier, laborer or materialman to the above-described Project.

Further, the Contractor, through the undersigned warrants that all materials and equipment covered by this payment or used in the above-described Project are free and clear of all liens, claims, security interests and encumbrances.

DATED this _____ day of _____, 20__.

CONTRACTOR

SWORN TO AND SUBSCRIBED before me this _____ day of _____, 20__.

NOTARY PUBLIC

My Commission Expires:

NOTE: This form must be returned with original signatures prior to final payment.
Facsimiles are not accepted.